

too thin to be tapped. PennEngineering started with just four fastener machines in a Doylestown, Pennsylvania garage. Since then, PennEngineering has grown into a global industry leader. PennEngineering is now headquartered in Danboro, Pennsylvania. PennEngineering designs and manufactures a wide variety of fasteners, components and fastener installation equipment for diverse industries, including electronics, computer, data/telecom, medical, automotive, marine, aerospace/aircraft, and general manufacturing.

PennEngineering's Extensive Product Line

3. Since 1942, PennEngineering has been in the business of designing, manufacturing and selling a wide variety of fastening products including:
 - a) Nuts for sheet metal including the following types: floating, blind, standard, flush, miniature, all metal, locking thread, nylon-insert, locking thread, right angle, installing into stainless, spinning flare, and hard panel nuts;
 - b) Studs and pins for sheet metal including the following types: concealed head, flush head, flush-head low-displacement, heavy duty non-flush, hard-panel stud; high-tensile-strength non-flush; thin-sheet non flush; unthreaded pins flush; installing-into-stainless; self-clinching; swaging collar studs nonflush;
 - c) Standoffs for sheet metal including the following types; concealed-head; blind threaded; thru-hole threaded and unthreaded; for installing into stainless; thin-sheet thru-hole standoffs; grounding; close-to-edge; self-clinching; thin-sheet thru-hole standoffs for installation into stainless steel;
 - d) Captive panel screws and hardware including the following types: captive screws surface mount; for installing into stainless; heat sink mounting fastener system; large-knob, spring-loaded; locating pin, spring-loaded; low profile knob, spring-loaded; screw head, spring-loaded; screw head, no spring; surface mount, spring-loaded captive panel screw; tool only, non flush, spring-loaded; tool only, flush mounted, no spring; tool only, spinning clinch bolt, no spring; tool only, spinning clinch bolt, with spring;
 - e) Sheet-to-sheet attachment including the following types: metal to metal; metal to metal hinging with washer; metal to plastic; panel to panel; metal to metal, for installing into stainless; self-clinching;
 - f) Cable tie-mounts and hooks for sheet metal including the following types: standard tie-mount; and hook style tie-mount;

g) Fasteners for mounting into printed circuit boards including the following types: captive screws, broaching; captive screws, surface mount; captive screws, other; nuts, broaching; nuts and spacers/standoffs, surface mount; nuts, right angle; standoffs, broaching; standoffs, flare mount; studs, broaching; surface mount, spring-loaded captive panel screw; tin plated brass nuts and spacers/standoffs, surface mount;

h) Miniature (micro-sized) fasteners including the following types: self-clinching pins; self-clinching standoffs; self-clinching tack pins; surface mount nuts/standoffs; thru-threaded inserts for plastic; and,

i) Weld nuts.

4. Since first inventing a novel clinch fastener in 1943, PennEngineering has steadily expanded the type and variety of products in its portfolio. For example, in or around 1967, PennEngineering expanded its business into designing, manufacturing and selling fastener installation equipment, extending the product line over the years to include the following types: pneumatic and hand presses; die feed systems; installation equipment accessories including coalescing filters, turret tool systems, sheet metal joining system; and robot cell devices.

5. In or around 1986, PennEngineering acquired Standard Insert Co. and expanded its metal inserts for plastics product line to include molded in, press in, and post molded varieties.

6. In or around 2000, PennEngineering acquired Atlas Engineering and added a blind threaded rivet and metal insert product line including the following: low profile head; minimized profile head; half-hex shank, low profile head; thin wall, low profile head; blind threaded studs; 360° swaging low profile head as well as installation tooling.

7. In or around 2005, PennEngineering acquired MRC China, now called PennEngineering Automotive Fasteners, and expanded its product line for the automotive fastener industry including the following:

a) Externally threaded fasteners including the following types: banjo bolts; double ended studs; hex bolts; hex flange bolts; screws; shoulder bolts; square head bolts;

b) Internally threaded fasteners including the following types: floating nuts; hex flange nuts / hex nuts; insert nuts; inserts for plastics; lock nuts; pierce nuts on wire; tube nuts / weld nuts;

c) Other fasteners & hardware including the following types: brake & fluid handling components; hollow dowel pins / dowel pins; locator / guide pins; ball studs / bushings; compression limiters; double ended rivets; grooved shafts; hinge pins / sleeves; rivets / shoulder rivets;

d) Self-clinching fasteners including the following types: heavy duty, high torque and high tensile externally threaded studs; internally threaded clinch and weld nuts; internally threaded spacers and standoffs; captive screws; micro fasteners. These fasteners are typically used in the following applications: airbag housing / mirror housing; battery covers; brackets / door trim; grill assembly; sunroofs; automotive electronics; and,

e) Blind threaded rivet nuts including the following types: standard duty; heavy duty; high torque. These fasteners are typically used in the following applications: bumper and frame systems; ev battery trays; fuse boxes; mounting to hydroformed tubing; radiators; sunroofs; tool box.

8. Over the years, PennEngineering has expanded its inserts-for-plastics product line including the following:

a) Ultrasonic/heat staking inserts including the following types: tapered, thru threaded; straight wall thru threaded; symmetrical, thru threaded;

b) Molded-in inserts including the following types: blind threaded; self-locking blind threaded; thru threaded; knurled spacers; and,

c) Press-in inserts including the following types: hexagonal; thru threaded; flange-head; straight knurl.

9. Over the years, PennEngineering has expanded its product line of nuts and studs that are fastened to metal parts or panels by means of a riveting, piercing or pressing process including the following types: rivet nuts/studs; pierce nuts/studs; press in nuts/studs; manual, automatic feed and robotic installation systems.

10. True and correct copies of sample pages from PennEngineering's extensive products catalogue showing are shown in exhibit 1. All of these products are advertised, promoted and sold using one or more of PennEngineering's numerous trademarks and most are advertised, promoted and sold using the PEM Family of Marks (defined below).

11. Since 1942, PennEngineering has steadily grown its engineering and production capacity. PennEngineering now has manufacturing and technical facilities in the United States, Europe, and Asia including Danboro, Pennsylvania; Winston-Salem, North Carolina; Galway, Ireland; Friedrichsdorf, Germany and Kunshan, China. Over the past 73 years, PennEngineering has manufactured and sold billions (literally) of fastener products. For example, in 2015 alone, PennEngineering will manufacture and sell over *six billion* fasteners.

12. In addition to the United States, PennEngineering's products are sold in more than 75 countries through an extensive network of engineering representatives and distributors in, for example, Australia, Austria, Brazil, Canada, China, Denmark, France, Finland, Germany, Hong Kong, India, Ireland, Israel, Italy, Japan, South Korea, Mexico, New Zealand, Norway, Portugal, Singapore, Spain, South Africa, Sweden, Switzerland, Taiwan, United Kingdom and the United States.

13. In 2001, PennEngineering acquired Precision Steel Holdings Limited of Galway, Ireland, a manufacturer of turned screw machine parts. The company now trades as PennEngineering Fastening Technologies (Europe) Ltd. This 110,000 square foot facility supplies screw machined, headed and formed products to a number of European authorized distributors.

14. In 2013, PennEngineering created pennTool Group, which specializes in the design and manufacture of precision tooling for heading and screw machine operations. In 2014,

PennEngineering acquired PROFIL VerbindugstechnikV®, which specializes in the design and manufacture of pierce nuts and studs which are fastened to metal shaped parts by means of a riveting process. PROFIL also constructs automated feeding equipment which is customized to meet the individual production requirements of its customers.

15. Since 1942, PennEngineering has grown steadily and now has about 1,700 employees globally and annual revenue in excess of 400 million dollars. The cost of PennEngineering's fasteners may range from about \$0.03 to about \$0.90 per unit in volumes of about 250,000, which is very inexpensive compared to the cost of other components of the devices with which such fasteners are used.

16. Since 1942, PennEngineering has continuously invented new fastener products and improved on old fastener products as evidence by its extensive patent portfolio. PennEngineering spends more than \$1,200,000 per year to design, develop, test and certify its new fastener products. PennEngineering has been issued¹ more than 150 U.S. and foreign patents for its fastener products, fastener installation equipment, and methods of manufacturing. A true and correct list of PennEngineering's *active* U.S. and foreign patents is shown in exhibit 2.

PennEngineering's Superior Product Quality

17. In the fastener solutions industry, name and reputation are critical to a company's continued success. PennEngineering's name and reputation are its most valuable assets. Over the past 73 years, PennEngineering has developed a reputation for designing, manufacturing and selling only the highest quality fastener products. PennEngineering exercises extensive quality

¹ PennEngineering assigns all of its patent and trademark rights to a holding company, PEM Management, Inc., and is granted back an exclusive license under the patents and trademarks.

control at its manufacturing plants and has a manufacturing strategy of defect prevention rather than defect detection. PennEngineering uses statistical tools throughout its manufacturing processes to monitor the performance and assure effective quality control of each process step. If a non-conforming situation arises, it is resolved immediately with the use of appropriate quality assurance tools.

18. PennEngineering's fastener quality management system is ISO9001 registered, Department of Defense QSLM approved, and can support DFARS clause 252.225-7014 requirements. In addition, PennEngineering's Galway, Ireland, and Kunshan, China facilities are registered to Technical Specification ISO/TS 16949. A current list of PennEngineering's quality approvals and certifications is set forth below:

ISO 9001

- PennEngineering, Danboro, PA - 20 April 2016
- PennEngineering, Winston-Salem, NC - 7 February 2018
- PennEngineering Singapore Pte Ltd. - 13 January 2016
- PEM Shanghai Co., Ltd. - 30 November 2017

AS 9100

- PennEngineering, Danboro, PA - 20 April 2016
- PennEngineering, Winston-Salem, NC - 7 February 2018
- PEM (China) Co., LTD. - 2 October 2016

Department of Defense

- QSLM Approval - Class 2 and Class 3 Fasteners, Danboro, PA - 2 May 2016
- QSLM Approval - Class 2 and Class 3 Fasteners, Winston-Salem, NC - 8 February 2018

ISO 14001

- PennEngineering Automotive Fasteners, Kunshan facility - 15 July 2018
- PEM China, Kunshan facility (English) - 28 October 2017
- PEM China, Kunshan facility (Chinese) - 20 November 2016

ISO/TS 16949

- PEM Europe, Galway, Ireland – 27 May 2018
- PennEngineering Automotive Fasteners, Kunshan facility – 30 June 2018

- PEM China, Kunshan facility (English) - 20 November 2016
- PEM China, Kunshan facility (Chinese) - 20 November 2016

A2LA Certification

- PEM (China) Co., LTD. - 31 January 2017

Nadcap Accreditation

- PEM (China) Co., LTD. – 30 April 2017

19. PennEngineering is a member of the Automotive Industry Action Group (AIAG), which is a group of companies that work together to resolve issues critical to the automotive supply chain. PennEngineering is also a registered member of the International Material Data System (IMDS).

20. The majority of PennEngineering's part numbers are compliant with the current revision of the European RoHS directive (2002/95/EU). PennEngineering is committed to helping its customers select RoHS compliant products and offer this general statement regarding compliance of its fasteners to the RoHS directive. If compliance certification on specific part numbers is needed, PennEngineering also supplies such certification if a list of PennEngineering's part numbers is supplied. PennEngineering continues to work towards improving its product compliant status.

21. These numerous quality approvals and certifications underscore PennEngineering's reputation for high quality manufacturing and products.





PennEngineering's Famous PEM Family of Marks


22. Since at least as early as 1946, PennEngineering has used the trademark PEM in commerce to advertise, promote and sell its fastener products and accessories, and to identify and distinguish its goods from the goods of other companies. Sample advertisements showing use of the mark PEM from the 1960's are attached hereto as exhibit 3.

23. On June 19, 1962, PennEngineering was awarded U.S. Registration No. 732,947 (“the ‘947 Registration”), which grants PennEngineering the exclusive right to use the mark PEM, or any confusingly similar mark (colorable imitation), in connection with "drill bushings and self-clinching nuts, fasteners, studs and stand-offs”, and in connection with related goods. A true and correct copy of the ‘947 Registration is shown in exhibit 4. The mark PEM was registered on the Principal Register without the need to claim secondary meaning. The ‘947 Registration became incontestable under the Lanham Act on October 25, 1984 when the U.S. Patent & Trademark Office accepted and acknowledged PennEngineering’s Section 15 Affidavit.

24. For the past 69 years, PennEngineering has continuously used and heavily promoted and advertised the mark PEM in numerous industries including: aerospace/aircraft; appliances; automobiles; compact electronics; consumer electronics; food service equipment; furniture/fixtures/signs; industrial equipment; lawn/garden equipment; lighting; marine/boating; medical; military; recreational; telecom; trucks/trailers.

25. Over the years, PennEngineering has adopted numerous additional marks for its fastener products that incorporate the mark PEM. For example, PennEngineering advertises, promotes and sells its fastener products using the following federally-registered marks:

<u>Mark</u>	<u>Registration Number</u>	<u>Registration Date</u>	<u>Incontestability Date</u>	<u>Goods & Services</u>
PEM	732,947	6/19/1962	10/25/1984	Drill bushings and self-clinching nuts, fasteners, studs and stand-offs
PEM	1,177,822	11/17/1981	8/3/1987	Broaching-type captive fasteners-namely, broaching-type captive fasteners with internal threads, broaching-type captive standoffs with and without internal threads, broaching-type captive solder terminals, broaching-type captive studs, broaching-type captive panel fasteners and metallic inserts.
PEM	1,403,759	8/5/1986	8/12/1991	Metal fasteners
PEM	2,758,505	9/2/2003	9/2/2009	Panel fasteners, namely self-clinching, snap-in floating and hybrid panel fasteners
	889,244	4/14/1970	4/14/2010	Self-clinching fasteners, self-locating weld fasteners, and self-clinching drill bushings
	1,043,967	7/20/1976	11/9/1981	Presses for installing fasteners or the like and also for parts of said presses
	1,092,108	7/25/1983	5/30/2015	Panel fastener assemblies and spring loaded plunger assemblies
	1,113,034	2/13/1979	4/23/1984	Electrical terminals and electrical grounding stand-offs

	4,331,371	5/7/2013	n/a	Fasteners made of metal, namely, nuts, weld nuts, studs, pins, standoffs, rivets and inserts, cable-tie mounts and hooks for sheet metal; self-clinching panel fasteners made of metal or mostly of metal; panel fasteners and panel fastener assemblies made of metal or mostly of metal; sheet-metal fasteners made of metal; fasteners made of metal or mostly of metal for mounting into printed circuit boards; micro fasteners made of metal for use in the consumer electronics industry
PEMFLEX	937,397	7/11/1972	7/11/2012	Fasteners, i.e., nuts
PEMHEX	781,236	12/8/1964	12/8/2004	Fasteners
PEMSERT	883,650	1/6/1970	1/6/2010	Inserts
PEMSERTER	1,365,248	10/15/1985	6/3/1991	Power-operated presses for installing fastener
PEMSERTER MICRO-MATE	1,433,571	3/24/1987	7/2/1992	Non-powered hand presses for punching holes and installing fasteners for use in sheet metal
PEMSERTER and triangle composite	3,567,528	1/27/2009	2/9/2015	Power-operated presses for installing fasteners
PEM SP	3,270,807	7/31/2007	8/5/2013	Metal fasteners
PEM300	1,444,862	6/30/1987	10/20/1992	Sheet Metal Fasteners
AUTOPEM	4,296,186	2/26/2013	n/a	Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners

MICROPEM	4,250,883	11/27/2012	n/a	Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners
AEROPEM	4,298,838	3/5/2013	n/a	Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners

26. PennEngineering also advertises, promotes and sells its fastener products using several common law trademarks for which federal registration is pending. For example, PennEngineering owns federal trademark applications for the marks PEM SH, PEM SH and design, PEM VM and PEM SMPP. All of PennEngineering's registered and common law trademarks identified above are collectively referred to as the "PEM Family of Marks." True and correct copies of the above-listed Registration Certificates are attached in exhibit 4.

PennEngineering's Additional Famous Trademarks

27. In addition to the PEM Family of Marks, PennEngineering owns more than 100 other federally-registered and common law marks. For example, PennEngineering owns the following trademarks that are being infringed:

<u>Mark</u>	<u>Registration Number</u>	<u>Registration Date</u>	<u>Incontestability Date</u>	<u>Goods & Services</u>
The "Blue Locking Element Mark"	1,449,260	7/28/1987	10/30/1992	Self-clinching locking nuts
The "Shoulder Flare Mark"	4,037,181	10/11/2011	n/a	Metal threaded fasteners, namely, panel fasteners with heads of metal and panel fasteners with heads of metal and plastic

The “Pedestal Mark”	4,293,597	2/19/2013	n/a	Metal fasteners, namely, clinch fastener for mounting two sheets or panels in perpendicular orientation
SNAPTOP	1,418,142	11/25/1986	4/2/1992	Metal fasteners used to separate and hold printed circuit boards
SPOTFAST	3,341,727	11/20/2007	9/30/2013	Metal fasteners, namely, a clinch-attached stud for joining two metal sheets
REELFAST	3,002,446	9/27/2005	11/8/2011	Metal fasteners supplied on tape reels for surface mounting to circuit boards

28. True and correct copies of the above-listed Registration Certificates are attached in exhibit 4. The six trademarks listed immediately above are hereinafter referred to as PennEngineering’s “Six Other Marks.” Since their adoption, PennEngineering has continuously used and heavily promoted each of Six Other Marks in the same industries as identified above with respect to the PEM Family of Marks.

Advertising, Marketing and Promotion of PennEngineering’s Marks

29. Through PennEngineering's substantial marketing and advertising efforts, the PEM Family of Marks and Six Other Marks have become famous in the fastening solutions industry, and recognized throughout the United States (and the world) as a trademark of PennEngineering. The PEM Family of Marks and Six Other Marks, and the extensive recognition and goodwill symbolized by the PEM Family of Marks and Six Other Marks, are extremely valuable assets of PennEngineering. The PEM Family of Marks and Six Other Marks represent PennEngineering's reputation as a producer of top quality fastener products and fastener installation equipment. Today, nearly all of PennEngineering's sales relates to fastener products and fastener installation equipment sold under the PEM Family of Marks.

30. PennEngineering's fastener products and fastener installation equipment bearing the PEM Family of Marks and Six Other Marks are sold throughout the entire world through an extensive network of distributors in the U.S. and dozens of foreign countries. PennEngineering currently has approximately 64 distributors in 47 countries. A true and correct list of PennEngineering's current distributors is attached hereto as exhibit 13.

31. PennEngineering's fastener products and fastener installation equipment bearing the PEM Family of Marks and Six Other Marks are also advertised, promoted and sold on its extensive interactive website. True and correct sample pages from PennEngineering's website, *www.pemnet.com*, are shown in exhibit 5. PennEngineering has operated this website, and promoted the PEM Family of Marks and Six Other Marks on this website, since at least as early as 1996. True and correct sample screenshots from *www.pemnet.com* from 1996, 1999, 2000, 2002, 2005, and 2007 are attached hereto as exhibit 6.

32. PennEngineering's fastener products and fastener installation equipment bearing the PEM Family of Marks and Six Other Marks are also advertised, promoted and sold at national and international trade shows including the following: Pacific Design & Manufacturing; FABTECH; Composites Europe; mtex; MIDEST; Fastener Expo; and, Manufacturing Indonesia. A true and correct list of trade shows at which PennEngineering has advertised and promoted products bearing the PEM Family of Marks and Six Other Marks is attached hereto as exhibit 7. Photographs of a typical PennEngineering trade show booth are also included in exhibit 7.

33. PennEngineering's fastener products and fastener installation equipment bearing the PEM Family of Marks and Six Other Marks are also advertised, promoted and sold through numerous national and international trade journals including: Design News; Assembly; NASA Tech Briefs; Machine Design; Design World; Electronic Component News; Fabricator;

Electronic Products; Thomas Register; Global Spec; Blech; BBR; Elektronik Automotive; Automobil Produktion; Industrie et Technologies; and Ingenieurs de l'Automobile. A list of trade journals and publications in which PennEngineering has advertised and promoted the PEM Family of Marks and Six Other Marks in 2011, 2012, 2013 and 2014 is shown in exhibit 8.

34. True and correct samples of PennEngineering's past national trade journal advertisements from 1978 through 2012 for the United States and Europe are attached hereto as exhibit 9. True and correct samples of PennEngineering's past national trade journal advertisements from 2013, 2014 and 2105 are attached hereto as exhibits 10, 11, and 12.

35. Many of PennEngineering's distributors utilize PennEngineering's automated catalog on their website. All authorized distributors are entitled to incorporate the same marketing information on their website that appears on PennEngineering's website by linking the distributor's website to PennEngineering's website. This program allows the distributor to be absolutely sure that they always have the most up to date information running on their websites. It is one more step to make our customers aware that the only way they can be assured of getting genuine PEM fasteners is to go to a PEM authorized distributor. A sample screen shot showing PennEngineering's website linked to a distributor's website are attached hereto as exhibit 14.

36. PennEngineering's fastener products and fastener installation equipment bearing the PEM Family of Marks and Six Other Marks are also advertised, promoted and sold through independent technical representatives and its own direct sales/technical force. In Europe and Asia, PennEngineering's authorized distributors also act as technical representatives who are also supported by PennEngineering's direct representatives.

37. All totaled, PennEngineering currently spends more than \$1,200,00 per year advertising and promoting its PEM Family of Marks and Six Other Marks in the United States

and throughout the world. Over the past 10 years, PennEngineering has spent more than \$10,000,000 advertising and promoting its PEM Family of Marks and Six Other Marks. This cost does not include the added cost to manufacturer fastener products incorporating the Shoulder Flare Mark, the Blue Locking Element Mark, and the Pedestal Mark, which were intentionally designed *at added cost* to distinguish PennEngineering's fastener products from its competitors.

38. Thus, through extensive and continuous advertising and promotion, the PEM Family of Marks and Six Other Marks have become famous and recognized to be the exclusive trademark of PennEngineering.

Defendants' Trademark Infringement

39. Recently, PennEngineering discovered that a competitor, defendant Pemco Hardware, Inc. ("Pemco Hardware") is advertising and selling fastener products using the marks PEMCO, PEMCO HARDWARE INC., and PEMCO FASTENING SYSTEMS, which are confusingly similar to PennEngineering's trademark PEM and its PEM Family of Marks. For example, defendant Pemco Hardware is using the PEMCO Infringing Marks on its Internet website to advertise and promote its fastener products. True and correct screenshots of defendant's website www.pemcohardware.com are shown in exhibit 15.

40. Pemco Hardware, Inc. is also using the mark DONGGUAN CITY FENGANG PEMCO HARDWARE FACTORY on its U.S. website www.pemcohardware.com. Exh. 15. The mark DONGGUAN CITY FENGANG PEMCO HARDWARE FACTORY is also an active link to an associated Chinese website www.pemcomfg.com, which is owned by Dongguan Fenggang Pemco Hardware Factory ("Dongguan Fenggang Pemco"). True and correct screenshots of Dongguan Fenggang Pemco's website are attached hereto as exhibit 16. The

homepage of this website www.pemcomfg.com prominently displays the mark PEMCO.

41. Pemco Hardware is also using the marks PEMKU and SHENZHEN PEMCO FASTENING SYSTEM CO, LTD. on its U.S. website www.pemcohardware.com. Exh. 15. The mark PEMKU is also an active link to an associated Chinese website www.pemku.com, which is owned by Defendant Shenzhen Pemco Fastening Systems Co., Ltd. (“Shenzhen”). True and correct screenshots of Shenzhen’s website www.pemku.com are attached hereto as exhibit 17. True and correct screenshots of Shenzhen’s website www.pemcofastening.en.china.cn are attached hereto as exhibit 18. It appears that Shenzhen is the parent of Dongguan Fenggang Pemco and Pemco Hardware, or related in some manner. For example, photos on Shenzhen’s website www.pemku.com showing numerous boxes stamped with the mark PEMCO are attached hereto as exhibit 18. The marks PEMCO, PEMCO HARDWARE INC., PEMCO FASTENING SYSTEMS, DONGGUAN CITY FENGANG PEMCO HARDWARE FACTORY, PEMKU and SHENZHEN PEMCO FASTENING SYSTEM CO, LTD. are collectively referred to as the “PEMCO Infringing Marks.”

42. Recently, PennEngineering discovered that Pemco Hardware is also advertising and selling fastener products using PennEngineering’s Shoulder Flare Mark, Blue Locking Insert Mark, Pedestal Mark, and the marks SPOTFAST, SNAP-TOP and REELFAST (the “Six Infringing Marks”). For example, defendant Pemco Hardware is using the Six Infringing Marks on its Internet website to advertise and promote its fastener products. True and correct screenshots of Pemco Hardware’s website www.pemcohardware.com showing the Six Infringing Marks are shown in exhibits 19-24 and 29.

43. PennEngineering and defendants are direct competitors in the fastener industry. For example, PennEngineering and defendants manufacture and sell many of the same types of

fasteners. True and correct screenshots of the “products” page of Pemco Hardware’s website are shown in exhibit 15. By comparison to the fastener products offered by PennEngineering as described above, Pemco Hardware also sells self-clinching nuts, self-clinching standoffs, pins and bushes, inserts for plastic, self-clinching studs, panel fastener assemblies, spring-loaded plungers, and rivet nuts.

44. Both PennEngineering and defendants advertise, promote and sell their products to the same customers. Both parties have Internet websites on which their respective goods are advertised and promoted. These websites are examined by the same industrial customers. PennEngineering’s customers include contract manufacturers (CM’s), sheet metal fabricators, original equipment manufacturers (OEM’s), design engineers, mechanical engineers, CAD designers, and packaging engineers. Some of these customers are unsophisticated customers who do not expend great care or attention regarding product source.

Defendants’ Patent Infringement

45. PennEngineering also recently discovered that defendants are selling fastener products that infringe several of its U.S. patents. The following chart identifies PennEngineering’s patent and the corresponding infringing product being imported, offered for sale and sold in the United States by Pemco Hardware:

<u>Patent No.</u>	<u>Pemco Hardware Product Name</u>	<u>Exhibit</u>
7,374,381	Type SF Spotfast Fasteners	25
8,297,899	Type T microPEM Tackpin Fasteners	26
D461,705	Type TDO Self Clinching Cable Tie Hooks	27
5,810,501	RAA Aluminum Self-Taping Right Angle Fastener	28

7,213,321	Reelfast SMT Fastener	29
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46. Each of the above-listed patents was duly issued by the U.S. Patent Office and is active and in force.

47. PennEngineering spends more than \$350,000 per year to prosecute and maintain all of the patents and trademarks in its intellectual property portfolio. Each of PennEngineering's fastener products that are covered by the claims of the above-listed patents is marked with its respective patent number and provides notice to third parties that the respective fastener products are the exclusive property of PennEngineering.

48. Defendants' products identified as Type SF and Type SFP SpotFast Fasteners for Joining of Two Metal Sheets indirectly infringe U.S. Patent No. 7,374,381 (the "381 Patent") under 35 U.S.C. § 271(c). Defendants' Type SF and Type SFP fasteners are direct "knock offs" of PennEngineering's patented double flush clinch stud. A side-by-side comparison of defendants' infringing product and a drawing of a preferred embodiment of the invention from the '381 Patent is shown in Exhibit 25.

49. Exhibit 25 also shows the structure of Defendants' infringing fastener that is especially made or especially adapted for use in an infringement of claim 1. The advertisement in Exhibit 25 shows the fastener connecting two metal sheets and how Defendants actively induce customers to connect two metal sheets with Defendants' Type SF and Type SFP fasteners.

50. Defendants' product identified as "Type TTM microPEM[®] TackPinTM Fasteners" not only directly infringes U.S. Patent No. 8,297,899 ("the '899 Patent") under 35 U.S.C. § 271(a), but is a blatant "knock off" of PennEngineering's patented clinch pin fastener. A side-

by-side comparison of defendants' infringing product and a drawing of a preferred embodiment of the invention from the '899 Patent is shown in Exhibit 26. Exhibit 26 also shows the structure of Defendants' infringing product that satisfies each of the elements of claim 1. Exhibit 26 leaves no doubt that Defendants' SMT Panel Fastener infringes the '899 Patent. Defendants' intentional infringement is further evidenced by the fact that Defendants are using two of PennEngineering's trademarks, MICROPEM and TACKPIN to advertise the product.

51. Defendants' product identified as "Type TDO Self-Clinching Cable-Tie Hook" not only directly infringes U.S. Patent No. D461,705 ("the '705 Patent") under 35 U.S.C. § 271(a), but is a blatant "knock off" of PennEngineering's patented sheet metal cable hook. A side-by-side comparison of defendants' infringing product and a patent drawing of a preferred embodiment of the invention from the '705 Patent is shown in Exhibit 27. Exhibit 27 also shows the structure of Defendants' infringing product that satisfies each of the elements of claim 1.

52. Defendants' product identified as Type RAA – Aluminum Self-Tapping Right Angle Fastener not only directly infringes U.S. Patent No. 5,810,501 ("the '501 Patent") under 35 U.S.C. § 271(a), but is also a blatant "knock off" of PennEngineering's patented right angle fastener. A side-by-side comparison of defendants' infringing product and a drawing of a preferred embodiment of the invention from the '501 Patent is shown in Exhibit 28. Exhibit 28 also shows the structure of Defendants' infringing product that satisfies each of the elements of claim 1.

53. Defendants' product identified as REELFAST[®] SMT Panel Fastener not only directly infringes U.S. Patent No. 7,213,321 ("the '321 Patent") under 35 U.S.C. § 271(a), but is a blatant "knock off" of PennEngineering's REELFAST[®] product. A side-by-side comparison of defendants' infringing product and a drawing of a preferred embodiment of the invention from

the '321 Patent is shown in Exhibit 29. Exhibit 29 also shows the structure of Defendants' infringing product that satisfies each of the elements of claim 1. This comparison leaves no doubt that Defendants' SMT Panel Fastener infringes the '321 Patent. In fact, Defendants' website notes that the SMT Panel Fastener is "patented." However, Defendants neglect to state that the product is patented *by PennEngineering*, not Defendants. To add insult to injury, Defendants are using PennEngineering's registered trademark REELFAST to advertise Defendants' infringing product.

54. Since the 1940's, PennEngineering's trademarks and patented products have been well known and widely recognized in many industries including the electronics, computer, data/telecom, medical, automotive, marine, aerospace/aircraft, and general manufacturing industries. PennEngineering's name, reputation and product line are its most valuable assets and are critical to its continued success. PennEngineering only seeks to protect the goodwill and reputation of its well-known marks, and to protect its patent rights. PennEngineering does not seek to enjoin defendant from selling all fastener products; rather, PennEngineering merely seeks to enjoin defendant from using colorable imitations of PennEngineering's valuable trademarks or selling PennEngineering's patented products. Defendants are free to sell unpatented fastener products and fastener products under any other name that does not cause confusion in the marketplace or dilute PennEngineering's marks.

55. Defendants, on the other hand, are intentionally using colorable imitations of PennEngineering's marks and selling "knock-offs" of PennEngineering's patented products to trade off the goodwill of PennEngineering. Defendants seek to profit from the well-established reputation of PennEngineering. The damage to PennEngineering's reputation, distinctive quality of its trademarks, and patented product designs is irreparable and not fully compensable by

money damages.

56. The marketing and sale of infringing products by Defendants has harmed and continues to harm the business of PennEngineering. Attarian decl. ¶55. For example, PennEngineering is already aware of at least one large customer that is buying infringing product from Defendants. Now that Defendants have their “foot in the door” with this client, Defendants are likely to procure more business from the client. But for supplying the infringing product, Defendants would not likely have gotten purchase orders of any type from this client.

57. I believe that Defendant Pemco Hardware is a small, financially unstable company that may not be able to fully compensate PennEngineering for any monetary judgment. For example, Pemco Hardware’s contact numbers appear to be two personal cell phone numbers and its business address is located in a residential neighborhood. I also believe that collecting any monetary judgment against Defendants Shenzhen and Dongguan Fenggang Pemco would be unlikely since they are Chinese companies. Therefore, PennEngineering seeks preliminary injunctive relief.

58. To the best of my knowledge, I declare the foregoing to be true and correct under penalty of perjury.

Date: Nov. 19, 2015



Leon Attarian